

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of October 9, 2007 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

In the Office Action, Claims 1, 2, 4-12, 14-16, and 18-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 7,143,420 to Radhakrishnan (hereinafter Radhakrishnan). Claims 3, 13, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Radhakrishnan in view of U.S. Patent 7,184,534 to Birch, *et al.* (hereinafter Birch).

### **Amendments to the Claims**

Although Applicants respectfully disagree with the rejections in the Office Action, Applicants nonetheless have amended the claims in order to expedite prosecution of the present application by further emphasizing certain aspects of the claims. Applicants respectfully assert, however, that the claim amendments presented are not intended as, and should not be interpreted as, the surrender of any subject matter. Applicants are not conceding by these amendments that any previously submitted claims are unpatentable over the references of record. Applicants' present claim amendments are submitted only for purposes of facilitating expeditious prosecution of the present Application. Accordingly, Applicants respectfully reserve the right to pursue any previously submitted claims in one or more continuation and/or divisional patent applications.

In this response, Applicants have amended independent Claims 1, 8, 15, and 22 to emphasize certain aspects of the claims. In particular, the independent claims have been

amended to include the limitation recited in Claims 3, 13, and 17. Claims 3, 13, and 17 have been cancelled. No new subject matter has been introduced by these amendments.

**The Subject Matter Of Birch And The Claimed Invention Were  
Commonly Owned At The Time The Invention Was Made**

As amended, independent Claims 1, 8, 15, and 22 now recite the same limitation formerly recited in now-cancelled Claims 3, 13, and 17. Accordingly, Applicants respectfully submit that the only applicable rejection pertaining to the amended independent claims is the one asserted in the Office Action against Claims 3, 13, and 17 based on the combination of Radhakrishnan and Birch. Applicants respectfully submit that the combination of Radhakrishnan and Birch fails to teach or suggest every feature recited in the amended claims. Applicants respectfully assert, however, that the issue is moot since the claimed invention and the subject matter of Birch were commonly owned by the same entity, International Business Machines Corporation (IBM), at the time the claimed invention was made. Accordingly, Applicants respectfully submit that 35 U.S.C. § 103(c) precludes citing Birch against the present invention.

**CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the

Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

AKERMAN SENTERFITT

Date: January 9, 2008

/Richard A. Hinson/  
Gregory A. Nelson, Registration No. 30,577  
Richard A. Hinson, Registration No. 47,652  
Eduardo Quinones, Registration No. 58,575  
Customer No. 40987  
Post Office Box 3188  
West Palm Beach, FL 33402-3188  
Telephone: (561) 653-5000